IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 31ST JULY 2006 / 9TH SRAVANA 1928

ST.Rev..No. 85 of 2006

TA.324/2005 of S.T.A.TRIBUNAL,ADDL.BENCH,KZD.
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PETITIONER/ASSESSEE

K.BALAKRISHNAN NAIR, P.W.D.CONTRACTOR,
P.O.CHERUKUNNU, KANNUR.

BY ADV. SRI.T.M.SREEDHARAN
SMT.C.K.SHERIN

RESPONDENT/REVENUE

STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

BY SPL. GOVT. PLEADER FOR TAXES (SHRI V.V. ASOKAN)

THIS SALES TAX REVISION HAVING COME UP FOR ADMISSION ON 31/07/2006 ALONG WITH S.T.REV.NO.86/06, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C. N. RAMACHANDRAN NAIR &
K. M. JOSEPH, JJ.

S.T.REV.NOS.85/06 & 86/06

Dated this the 31st day of July, 2006

C. R.

JUDGMENT

C. N. Ramachandran Nair, J.

It is seen from the impugned orders that appeals were dismissed as not maintainable because delay condonation petitions filed along with the appeals were also dismissed. We find that Section 41(1) of the KGST Act provides for revision against orders of the Sales Tax Appellate Tribunal passed under sub-sections (4) and (7) of Section 39 of the KGST Act. While sub-section (4) deals with decision on merits in the appeal, sub-section (7) deals with the decision of the tribunal in review petition. In this particular case, petitioner filed appeals before the tribunal with inordinate delay and along with the appeals delay condonation petitions were filed. By separate orders, the tribunal dismissed the delay condonation petitions and consequently appeals were found not maintainable and dismissed by the orders which are subject matter in these

Revision Cases. We find that even though in the impugned orders, the tribunal has stated that the appeals are dismissed, in effect, these are orders of the tribunal refusing to admit the appeals beyond the period of limitation by virtue of the proviso to Section 39(1) of the KGST Act consequent upon their dismissing the delay condonation petitions. Therefore, in our view, the impugned orders declining to entertain the appeals by the tribunal are not revisable under Section 41(1) of the KGST Act. However, it will be open to the petitioner to challenge the impugned orders probably in a writ petition. So long as the Revisions are not maintainable under the Statute, we are unable to entertain the Revision Cases. The Revision Cases are accordingly dismissed.

C. N. RAMACHANDRAN NAIR, JUDGE

K. M. JOSEPH, JUDGE

kbk.